

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7316 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

RD MEHTA

Versus

UNION OF INDIA

Appearance:

MR RM HAKIM for Petitioner

MR RAJNI H MEHTA for the O.N.G.C.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 13/02/97

ORAL JUDGMENT :

Rule. Mr. Mehta waives service of Rule on behalf of O.N.G.C. With the consent of the parties, the matter is taken up for final hearing today.

Mr. Mehta appearing for the O.N.G.C. has stated that an amount of Rs.24475.75 Ps. required to be paid to the present petitioner against the leave encashment

benefit, due amount of salary and dues of drill cite compensatory allowance etc. shall be paid to the petitioner within a period of 4 weeks from today. The amount of gratuity i.e. a sum of Rs.62699.21 Ps. has already been paid to the petitioner on 31.3.92. But the controversy is about the interest at the rate of 9% per annum for a period of about three and half months because this amount of gratuity was paid after a period of three and half months from the date of his retirement whereas the amount was required to be paid within 15 days from the date of retirement i.e. 30.11.91. Mr. Mehta has submitted that at the time of retirement the petitioner did not sign the papers with regard to the handing over of the charge and, therefore, the payment has been delayed. Mr.. Hakim has pointed out that the charge had been handed over but the signatures had not been made in the prescribed form for that purpose. Once it is found that the charge had in fact been handed over, the signing in the prescribed form was only a formality and for that purpose the petitioner could be called upon at the time after his retirement. Even if it is found that a letter to this effect had been sent earlier in November, 1991 prior to his retirement, I find that this by itself could not be sufficient ground to withhold the payment of gratuity which had otherwise become due and payable to him on account of his retirement and this formality could be completed on the date of his retirement also. In the facts and circumstances of this case, the petitioner cannot be deprived of this amount of interest for the period of delay in the actual payment of the gratuity amount and, therefore, the petitioner may be paid interest as found to be entitled under S.8 of the Payment of Gratuity Act at the rate of 9% per annum. This due amount of interest shall also be paid to the petitioner within a period of 4 weeks from today alongwith other dues, which are admittedly payable to him.

This Special Civil Application is, therefore, allowed in the terms as aforesaid and the Rule is made absolute accordingly with no order as to costs.